

**Statement of Gordon Blue, President,
Crab Rationalization And Buyback (CRAB) Group**

Good morning Mr. Chairman, Congressman Young, and Members of the Subcommittee, my name is Gordon Blue, I am the President of the Crab Rationalization And Buyback, or CRAB, Group. The CRAB Group is an organization of more than 80 vessels which prosecute the crab fisheries of the Bering Sea and Aleutian Islands area [BSAI], and is the largest organization of vessel owners in these fisheries. We appreciate this opportunity to present our views on Fishing Capacity Reduction programs, and role of federal investment in fisheries and the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. I will focus my testimony on the Capacity Reduction Program for Bering Sea and Aleutian Islands [BSAI] Crab Fisheries, authorized as a part of H.R. 4577, Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 2001, which passed on December 15, 2001. I would like to address issues of reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act [MSFCMA] and the role of federal investments in fisheries with respect to development of the Capacity Reduction Program, and as they mirror larger aspects of the fisheries.

The BSAI crab fisheries have been valuable contributors to the economies of Western Alaska and the United States. Proceeds of these fisheries have built infrastructure providing basic health, communications and transportation for the residents of the communities, as well as the processing plants and the vessels which deliver to them. I also add, they have provided for my family for 23 years; I've participated in the BSAI crab fisheries variously as a crewman, captain, vessel manager, and vessel owner throughout that time.

Now these fisheries are in serious trouble. This is particularly distressing, because the most significant human factor in the decline of these stocks is one that we've recognized for a long time, worked hard to contain, and have been unable to accomplish, up until now. This factor is the excessive fishing capacity that has been brought to bear on the fisheries. In the crab fisheries especially, because of the positive ability to sort catch and return small and female crab to the sea relatively unharmed, the sheer number of vessels involved in a given fishery becomes an important factor in the unintended impact of the fisheries on the stocks. This occurs when the vessels of the fishery must cover areas of the grounds where small crab and female crab predominate, simply in order to find room to fish. In these conditions, the movement of gear by different vessels, searching the grounds for catch, begins to produce cumulative small injuries to the crab that are discarded, over and over, until the future of the fishery begins to be killed.

Since the re-authorization of the MSFCMA, in 1996, members of the CRAB Group have worked to see the implementation of an industry-funded buyout of excess capacity under provisions of Section 312 of the Act. We have received a great deal of encouragement and support from members of the industry, officials of NMFS, NOAA, the Department of Commerce, the States of Alaska, Washington, and Oregon, the North Pacific Fishery Management Council [NMFMC], members of Congress and staff persons, and we have seen our fisheries fall, one by one, as we've struggled to push through the mountain of paper the program requires. The crab buyback program enacted into law by H.R. 4577 provides for a capacity reduction program that will eliminate a reasonable measure of excessive capacity from the fisheries, and create enough room that we can work out the agreements to take us the next necessary step.

In the crab fisheries, we define fishing capacity as the ability to catch crab. Every incentive that brought me into the fisheries and has kept me there, has helped to improve my ability to catch crab. I am sure that is true

for each of the other vessel owners and operators out there as well. Each of them has worked hard, struggled with incredibly difficult conditions, and survived thus far, and deserves to continue to survive. In the process, each vessel has accumulated a catch history that represents its ability to catch crab. Consequently, the CRAB Group has focused its efforts to retire capacity through the purchase of active catch history as well as the vessel to which that history is assigned. This purchase and sale is a voluntary transaction on the part of both parties, and is designed to provide for the satisfaction of both.

We have taken pains that the seller receives a fair price, by providing a reverse bid structure that encourages a sharp pencil, but allows the seller to bid what he wishes. We've provided for bids to be ranked, in order to assure that the seller offering the most benefit to buyers, in the form of catch history, receives the greatest opportunity to benefit himself. We have taken pains to assure that the buyer receives fair measure for his purchase. These include measures to forestall the mechanisms by which this value can become diluted. We have made real progress, by the terms of H.R. 4577, in the reduction of latent licenses. There are prohibitions on re-entry of sellers into the fisheries, and on the addition of new licenses to the fisheries after the sale. There is provision for the rebuilding of the fisheries. In the fishery year just past, my vessels and most others in the crab fleet, each were able to fish crab just 15-1/2 days, spread out over four months. New regulations designed to rebuild the fisheries have further reduced the allowable catch of crab. These regulations were designed to meet the stricter standards of the MSFCMA. We think that rebuilding stocks is the way to go, and that healthier crab fisheries will result from the long-term benefits of reduced exploitation rates. We believe that the sweeping changes mandated by the Act have just begun to be implemented, and that they should be let stand, so that benefits can begin to accrue.

We have examined the impacts of 'input stuffing' in the fisheries, and have concluded that in the case of these fisheries, the fleet is now operating in a mode that is far below the capacity of each vessel. We acknowledge that the removal of real live capacity from the grounds also requires that some crew jobs are eliminated, and some vessels become more efficient. We declare that in the present circumstances of great hazard and dubious reward, to do so provides a real benefit, and not alone to the remaining crewmen, who may gain real fishing jobs as a consequence of a longer season. Recently, we have come to acknowledge that the harm that has occurred in our fisheries from an uncontrolled influx of new effort, cannot be allowed to be passed to other fisheries, in the form of vessels displaced by our capacity reduction. H.R. 4577 provides stringent measures that prevent this from occurring, anywhere in the world.

H.R.4577 additionally provides a directive to the NPFMC to analyze a number of quota programs, and their impacts upon the harvesters, the processors, and the communities that depend upon these fisheries, and to report back to Congress. We believe that when this has been properly accomplished, that you will see how to properly establish general guidelines that will protect the resource, the communities and the larger public interests -as well as fishermen, vessel owners and processors - and that you will give the job of developing and implementing a rationalization program back to the experts, in our case, the NPFMC and NMFS.

Finally, H.R. 4577 includes a feature which we did not design in our program. As a consequence of greater costs than anticipated, to provide for rebuilding and lower exploitation rates in the rebuilt fisheries, to provide for the permanent revocation of all fishing rights, and as a consequence of our greatly reduced fisheries, the fisheries will not presently support the payments necessary to this program. H.R. 4577 includes a provision for an appropriation of \$50 million - half of the cost of this program. We ask you for your support.

What follows in written testimony is a discussion of the development and features of the capacity reduction program, Thank you.

REGULATION OF THE FISHERIES

The Bering Sea and Aleutian Islands [BSAI] crab fisheries are prosecuted in the waters of the Bering Sea and North Pacific Ocean, in the U.S. Exclusive Economic Zone. These fisheries are managed jointly by the State of Alaska and the North Pacific Fishery Management Council [NPFMC] and National Marine Fisheries Service [NMFS], under a Federal Fishery Management Plan [FMP] approved by the Secretary of Commerce in 1989. This agreement reserves the authority to limit access to the fisheries, as well as to amend the FMP, to the NPFMC and NMFS. Fishery management measures necessary to protect the stocks of crab from impacts of other fisheries (such as trawl bycatch restrictions) are also undertaken by NPFMC/NMFS. [\(1\)](#)

Day to day regulation of the fisheries is performed by the Alaska Department of Fish and Game [ADFG], under regulations adopted by the Alaska Board of Fish [BOF]. The fisheries are managed as a number of different stocks, occurring in different areas, and at different times, starting between September 15 and January 15. These fisheries consist of several species in two distinct types, marketed as varieties of king crab and snow crab. Pots, or traps, are the only legal gear for the directed harvest of crab; retention of bycatch in any other fishery is prohibited. Regulations are in place to limit fishery input effort, protect stocks from incidental take, protect spawning and molting, protect habitat, eliminate the potential for ghost fishing of lost pots, require the discard of female or undersize male crab, prevent over fishing, and manage the excess of capacity through reduced seasons, rapid catch determination, satellite catch reporting, reduced time between announcement of closure and closure, and on-board fishery observers. [\(2\)](#)

. In 1998, the BOF concluded that the excess of capacity had overrun the ability of fishery managers to regulate the fisheries sufficiently to protect the stocks in all instances, by any of the means available to the State of Alaska, and asked the NPFMC to reduce the number of participants allowed. [\(3\)](#)

FISHERY MANAGEMENT STRATEGY

The harvest is governed by a Guideline Harvest Level [GHL] which is set according to management plan standards, annually, after a stock assessment model is evaluated, including data resulting from a summer trawl sample of the Bering Sea. The trawl sampling (survey) data are compiled and tabulated by NMFS and stock dynamics are modeled by ADFG, which then sets GHL, according to standards established in the harvest strategy for each fishery. A pertinent biological index, as for example, 'effective spawning biomass' in the *bairdi* tanner crab fisheries, has been established for each principle fishery. Population thresholds which govern allowable exploitation rates as a function of current population estimates, provide a matrix of occurrences, from closure of the fishery, through low levels of exploitation for rebuilding (10% of mature males, in the Bristol Bay king crab fishery), and finally, to higher levels in robust stock conditions.

The management strategy which had been under development and review since 1991 [\(4\)](#), established a more precautionary approach to management of the fisheries. A primary motivation for this work was that stocks of crab elsewhere in the State of Alaska had sustained fisheries at high levels, then entered a decline. Many had not recovered, even after significant periods of time. [\(5\)](#) Although the crab fisheries of the BSAI were generally in good health, the Bristol Bay red king crab had suffered a dramatic failure in 1982, and had not recovered to former levels. Development of the new harvest strategy first established a new stock

recruitment model for the Bristol Bay red king crab, based upon the length of recruits rather than strict stock aging, to account for the incremental growth pattern of crab, which is accomplished at risk, through molting of the shell. The model recognized that factors of climate and weather impact recruitment rates with greater variability and less predictability than had been appreciated in the older population model.

As a necessary consequence, there has been less allowable harvest of Bristol Bay red king crab than would previously have been the case, since 1996⁽⁶⁾. The overall harvest strategy has since been adapted for differing biology and knowledge, to provide the elements governing rebuilding requirements of the Magnuson Stevens Fishery Conservation and Management Act [MSFCMA]⁽⁷⁾

, particularly with respect to the Bering Sea *bairdi*⁽⁸⁾, St. Matthew Island blue king⁽⁹⁾, and Bering Sea *opilio*⁽¹⁰⁾ crab fisheries.

CONDITION OF THE FISHERIES RESOURCES

The management strategy has withstood a test before the courts, and is now accepted by the fleet, even if with some reluctance. In the first year since all of the rebuilding plans have been established, three BSAI FMP fisheries have been closed for rebuilding (St. Matthew Island blue king crab, Pribilof Island red and blue king crab) two have continued to be closed for rebuilding (Bering Sea *bairdi* crab and Adak red king crab), and the Bristol Bay red king crab and Bering Sea *opilio* [snow] crab fishery have been operated at reduced exploitation rates, as they were in the 1999/2000 fishing year.

The reduced exploitation rates applied to the crab fisheries, have resulted in lower allowable rate of catch, but the reduction in rate of catch was triggered by declines in population. The tonnage of product delivered from the fisheries in 2000, is twelve percent (12%) of that delivered in 1990⁽¹¹⁾. There have been stock fluctuations in the intervening years, but the most significant decline was noted for the *opilio* crab resource, after the fishery of 1999. In the language of the writers of the report of the results of the 1999 summer survey: "Abundance has declined precipitously to below threshold and is now defined as over fished. Exploitation rate has been reduced to 22%. Little recruitment is apparent, and the fishery may be closed next year"⁽¹²⁾

This decline continued into the present year⁽¹³⁾, and, although the annual summer survey cruise that will produce data for the determination of the 2002 fishery has yet to occur, the condition of stocks observed on the grounds during the directed fishery was not encouraging.

The *opilio* population decline and its associated effects were of sufficient impact to require a declaration of fishery disaster by the Governor of the State of Alaska and the Secretary of Commerce, in the spring of 2000. One community, St. Paul Island, derives most of its annual revenue from the snow crab fishery, and has been particularly hard-hit. The conservation benefits which are designed to accrue to future fisheries have also acted to increase the present problems of excess capacity in the fisheries, and their broader impacts.

CHARACTERISTICS OF THE FLEET

Vessels involved in the fisheries must withstand wintertime conditions in the Bering Sea, and be capable of competitive fishing in cold and fierce seas. Catcher vessels are typically 91 to 125 feet overall length (73%

of the fleet⁽¹⁴⁾, and cost \$1 million to \$3 million. Vessels are generally owned by partnerships or limited liability companies formed of a few investors, mostly individuals actively involved in the fisheries in some capacity, and very often owners include the principal Captain of the vessel. There is a fleet of approximately 235 vessels that are especially outfitted for these fisheries and primarily dependent upon them⁽¹⁵⁾.

Crew sizes vary between fisheries, with a typical catcher operation carrying five to seven persons on board. "Input stuffing" in the form of additional crewmen, was a prevalent practice during the years of greatest *opilio* harvest, 1991-95. There are disincentives to much larger crews, however - both as increased cost in liability coverage, and, with ten or more, crewmen become employees, rather than co-venturers. During the years 1991 -1995, the maximum fishing capacity of the fleet and supporting industries attained sustained harvest rates above 30 million pounds per week. Fleet size peaked in the fishery in 1994, with 273 vessels participating for some part of the fishery.

A 1997 survey of vessel owners⁽¹⁶⁾ indicated that 81% qualified as small business entities, under the provisions adopted by NMFS for the region. Consolidation, both among vessel owners and processors, as well as an increased degree of vertical integration between harvester and processor owners, had been occurring already at that time, and has been increasing since. Primary causes of this consolidation are economic.

These economic pressures for consolidation of ownership interest are heightened by excess of fishing capacity in the BSAI crab fisheries and manifest in a number of factors. Processing companies have increased their shares of vessel ownership, whether by design, or through failed notes to troubled owners. Vessel owners struggling to maintain income in an era of falling revenues have added units of production. Since 1995, when NPFMC asked NMFS to implement a limited entry program, new vessel construction has diminished, and existing vessel acquisition has increased. Some vessel owners have acquired "fishing rights" in anticipation of increased value due to the License Limitation Program [LLP], implemented in 2000, and revised in 2001. A feature of the LLP, as implemented, provides incentive for consolidation. Although the total number of LLP licenses for crab is high, the fishing rights represented by the license are actually a binomial nomenclature, with specific fisheries 'endorsements' attaching to each license. Fishing rights are not allowed to be severed from the license, however licenses are allowed to be 'stacked' within limits, on a given vessel. This scheme makes it necessary for a vessel owner wishing to pursue a fishery for which the vessel was not issued an endorsement, to acquire, and 'stack' the entire license of another vessel, in order to pursue that fishery. The licenses available for stacking are drawn from the pool of vessels which have sunk, or otherwise departed the area fisheries. These 'latent licenses' might otherwise re-enter the fisheries on new vessels. Excess capacity is helping to drive consolidation of vessel ownership, but not reducing the fishing capacity of the fleet in these fisheries.

ECONOMIC IMPACTS ON THE FLEET

One of the results of overcapacity in fisheries is that revenues decline. Average gross revenues per vessel in the *opilio* fishery are shown in the adjacent table. Note that these revenues broadly follow the population trends, and are impacted by capacity, as represented by number

of vessels. Also bear in mind that trends in other crab fishery populations which have augmented vessel income in the past, have similarly been in decline, in some cases, fisheries have been closed, for rebuilding. (17)

The peak per vessel revenue year in this fishery occurred in 1995. As stocks declined, a number of newer vessels left the fishery, both for domestic fisheries elsewhere, and foreign fisheries. In addition, the ex-vessel price was the highest received. This trend abruptly turned in 1996, when the resource continued to show low levels of recruitment, although "prerecruit" (stocks one year away from fishing size) levels showed that a "recruitment spike" (a single year class) was likely to be entering the fishery the following year. Vessel revenues buoyed in 1997 as this population component entered the fishery.

Once again, ex-vessel price supported revenues for one year after the stocks began to diminish, even though a number of vessels re-entered the fishery in 1999. Both harvest and revenue fell dramatically in 2000. The differences represented by the declines of harvest in 1995 and 1999 are greater than the impact of the new "rebuilding strategy." Population structures, described above, in "Condition of the Fisheries Resources," indicate that the time required to rebuild stocks is likely to be greater than previously.

COMPETITIVE PRESSURES

Pressures of increasing competition in the fisheries have several impacts. The vessels in the fisheries resort to "capital stuffing," which reduces return to investment. In the BSAI crab fisheries, many older vessels were replaced, between 1986 and 1994. Much of this activity involved Capital Construction Fund [CCF] activity, and an appreciable amount of that was from Fishing CCF qualified withdrawals. An even greater benefit, however, was received by vessel owners who brought vessels converted from oilfield support activity into the fisheries through conversion. This benefit derived from a coincident decline in oilfield activity, and the retirement of many of the support vessels that had been built under terms of MARAD administered CCF agreements, which were then available at very favorable cost, for conversion to crab fishing platforms.

It is in the nature of unforeseen events, that efforts of government, in this case, the NPFMC, which was working to establish programs to deal with excessive capacity, can become undermined by other programs of government. Rather than abolish programs, such as the CCF, that continue to produce needed benefits, it is suggested that programs be designed with the ability to monitor their impacts, and to provide inputs to affect program performance according to both the original

program intent, and to allow moderate corrections should specific instances of program success begin to produce undesirable results. In the instance of the BSAI crab fisheries, the implementation of the capacity reduction program, and an incentive to deposit capital proceeds of a buyback sale of fishing rights, for instance, to a retirement account, would provide for the documentation of capital removed from the fisheries. Similarly, the fishing vessel CCF, through administrative or regulatory changes, could provide for a one-time constructive withdrawal of funds from vessel CCF accounts, to a retirement account. This would provide for a "deconstructive" use of the CCF, and a supervised exit of capital from fisheries that are manifestly suffering, at present, from an excess of capacity. In the absence of such deconstructive incentive, we have seen CCF holders bring new vessels into these struggling fisheries, as qualified constructive withdrawals, rather than be compelled by fund administrators to take a penalty-producing non-constructive withdrawal of funds.

Many of the existing vessels in the fleet increased capacity between 1995 and 1999 by 'sponsoning' to greater width. Some lengthened as well. These measures were felt as imperatives by individual operators, due to the necessity to fish in tougher weather conditions, at greater distance from markets, and further offshore. The shift, from new vessel acquisition to existing vessel conversion, was in response to changes in access to the fisheries, discussed below. In the aggregate, of course, the individual imperatives to compete drove the problems of capacity further ahead than 'fleet number' alone would indicate.

As vessels became larger and more effective, gear restrictions were imposed. Pot limits were instituted in the 1992. Due to a court challenge, the first pot limit was redesigned, producing a 'tier' which allowed more pots according to vessel size. This created an incentive for vessels to lengthen into the upper tier. These capacity enhancements combined with the attempt at effort limitation to change fishing behaviors. Gear soak times dropped as vessels sought to stay busy, under the reduced soak times. Pots began to be 'shuffled' more routinely across the grounds, rather than targeted on an optimum spot and reset. This was a consequence of the shorter soak times, the larger, more efficient vessels, and the declining stocks. One impact of this, is that handling mortalities of *regulatory discards* has risen. Rather than former searching behaviors, which resulted in the ability to identify select fishing spots for size and quality of catch, it became the norm for one vessel after another to make a pass through the same ground, and the reiterative impacts of repeated small handling injuries to crab created additional fishing induced mortalities in the immature and reproductive reserve stocks, due to the increase in capacity.

The combined effects of fishery closures and diminished quotas are such, that the fishing fleet in the BSAI FMP crab fisheries suffered a steep decline of gross revenues, following upon a period of capital and other input stuffing that maximized vessel productivity, at significant cost and reduction of net revenue. The fleet gross revenues in 2000 were 35% of those available in 1990. Revenue thus far in 2001 has continued to fall: the opilio fishery produced only 62% of the gross revenues available in 2000. If the 'break-even' income for a vessel engaged in the opilio fishery is taken to be \$500,000 (a number that is too low, when other crab fisheries are curtailed), then the vessel gross revenues in the table show clearly that for four of the past six years, vessels have operated at loss in the fishery. The 'ripple effect' of these combined losses in local economies has begun to take on the character of steep seas sweeping through some communities, which have suffered reduced tax revenues (a function of raw fish price), municipal and other layoff of workers, general economic slowing, and increasing transportation difficulties as airline service levels have dropped and freighter schedules become less frequent - in short, increased isolation, fewer goods in local stores, lower quality of food as fresh food supplies age and dwindle, loss of income and occupation. In addition to short-term support the communities require a long-term reduction of capacity in these fisheries as much as does the fleet. This is required to promote economic stability, which will augment, and enjoy, any benefits of future resource rebuilding.

THE RACE FOR FISH

The opening date and time for each fishery for which a GHL has been determined, is set by statute. Vessels are required to be licensed, as are the vessel operator and crewmen. Permits must be acquired for each fishery, and vessels must be registered prior to entering a fishery. The registration process includes a 'tank inspection', typically performed within two days of the start of the fishery; the tank inspection assures that no crab are on board; there is a pot tag, unique to each season and fishery, required for each pot allowed, which must be displayed on the buoy of any pot on board the vessel or actually used in the fishery. No pots are allowed to be set before the opening time, and aircraft with sophisticated surveillance equipment, as well as vessels, of both the State of Alaska and the US Coast Guard, patrol the grounds, looking for violations.

Fisheries are closed by the managers, when it is estimated that the GHL has been attained. Managers may allow catch in excess of the GHL, or stop the fishery short of GHL, depending upon the rates of catch and the manager's reappraisal of stock conditions. Fisheries which ran for months have, within the past decade, been reduced to days. ⁽¹⁸⁾ A

fishery closure may be announced with as little as twelve hours notice. In certain conditions, the closure announcement may be made for a specified time period, before the start of fishing. In this mature stage of competition, there is no margin for error. The first boat to the crab takes the most, and the rest of the fleet is not far behind. 'Hot spots' and accumulations of legal stocks are soon caught up. Delays for any purpose, result in irrevocable loss of diminishing opportunities to fish - this management regime is well described as 'the Olympic system.'

SAFETY

The conditions of weather and climate of the region during the winter have helped to make these fisheries among the most dangerous of occupations, and those who fish for crab are at the greatest risk for fishing-related fatalities. This is aggravated by the management system, and risks have been made acute by the fishing power of the fleet and the decline of stocks.⁽¹⁹⁾ Beginning in 1999, and continuing through 2000 and 2001, U.S. Coast Guard [USCG] officers began boarding vessels during the preseason tank inspection period, in order to make an assessment of the preparation of the vessels. They found a 'surprising' proportion of licensed captains - half of the vessels boarded, even though there is no legal requirement for licensing. They found safety equipment above that required, a very high degree of compliance with stability and lading characteristics of the vessels, and that a large percentage of vessels had participated in voluntary U.S.C.G. dockside safety examinations.⁽²⁰⁾

Although the boardings have helped to keep the importance of safety in the minds of captains and crews, they have also served to demonstrate that competence alone will not serve to reduce these risks. Spurred to a more proactive approach, USCG and ADFG arrived at an understanding of mutual authorities that allowed ADFG to postpone the start of the October 2000 Bristol Bay king crab fishery while a forecast storm system with winds of 60 knots and 45 foot seas passed through.⁽²¹⁾ Once a fishery is underway, however, there is no mechanism for such closure. Operating far at sea, with fisheries openings that are only days in length, fleets are unable to avoid weather that comes up during the openings. "Hurricane-force winds. Waves crashing through pilothouses. All that, and the fleet didn't even reach the quota, thanks to more bad weather ..." read the opening of one report of the 2001 *opilio* season.⁽²²⁾ Overcapacity has lethal effects in the BSAI crab fisheries.

A MORATORIUM ON ACCESS

One of the ways in which fishery managers have attempted to control fishing capacity, is effort control through limiting access to the fishery resources. This has taken a number of forms throughout the nation. One constant, which was noted during the investigations of the Federal Fisheries Investment Task Force, is a necessary result of open, public process. In each case for which a regional Fishery Management Council has proposed a future access control system, the number of participants in the affected fishery has risen, in anticipation of the closing window of opportunity, frequently to the dismay of the regulators. The particular path of access limitation in the BSAI crab fisheries is described, with respect to impacts on capacity in the fisheries. It will be seen that the Capacity Reduction program for BSAI crab has become a crucial component of this program development.

In 1992, the NPFMC voted to establish a moratorium on new entrants to the BSAI crab and groundfish fisheries. This moratorium, which would have allowed more than 700 vessels into the BSAI crab fisheries, was not implemented by the Secretary of Commerce, until 1995. During this interregnum, the NPFMC proposal spent most of its time on the desk of the Regional Administrator, in Juneau. This turned out to be

an astute judgement, from an administrative viewpoint. The NPFMC decision was announced to the public in the usual manner, and the behavior of investors in the fisheries underwent a shift. Rather than undertake a project with the additional burden of risk arising from indeterminate actions of government, and in face of such a clear statement of intent by the NPFMC, investors began to create agreements involving the sale of future fishing rights arising under the proposed moratorium. Before long, a regular market in "moratorium rights" was trading through boat and permit brokerages at \$1,000/foot of vessel length, even though there were no such rights in law. No method to determine whether this trade had any impact on capacity in the fisheries has suggested itself, however it is clear that commercial agreements helped to establish the legitimacy of the regulation.

At the outset, the NPFMC recognized there was little benefit to controlling capacity, in establishing such a broad, inclusive class. Nevertheless, it was apparent that the groundfish fisheries had become fully utilized by the domestic fleet within a very few years (many had been vessels fleeing the collapse of the red king crab fishery in 1981 - 82) and that additional capacity was building and entering the fisheries. As a part of the moratorium deliberations, the NPFMC adopted the goal of an incremental approach to fishery rationalization, called the Comprehensive Rationalization Plan, which recognized that the spillover of vessels made surplus by the rationalization of a fishery, could create disruptive increases in the levels of capacity in other, not rationalized, fisheries. For this and other reasons, the NPFMC determined the most reasonable course for development of further rationalization programs (halibut/sablefish was already in development), was to move rationalization ahead in all the fisheries under its jurisdiction, simultaneously.

THE LICENSE LIMITATION PROGRAM

The second phase of the NPFMC Comprehensive Rationalization Plan was to establish a limited entry system for the fisheries of the region. The License Limitation Program [LLP] for Bering Sea/Aleutian Island Crab and Groundfish was adopted by the NPFMC in 1995. Not coincidentally, the moratorium on entry was implemented by the NMFS, in the same year. Again, the parameters for inclusion were broad. The LLP resulted in 542 potential licenses in the crab fisheries, when program implementation by NMFS finally occurred, in 2000. This number includes 168 licenses which were issued as "interim" or "non-transferrable." Interim licenses were issued under appeal from license-holders and are under administrative review by the Restricted Access Management [RAM] division of the NMFS. Although a certain number of appeals may eventually result in denial of a license, this is a long-drawn procedure. Additionally, and recalling the binomial nomenclature of the LLP license discussed under "Characteristics of the Fleet," relatively few of the 'umbrella' LLP licenses are in dispute. Far more common, is the appeal of one or more endorsements, by vessel owners seeking to continue participation in specific fisheries.

One of the observations to be made, with respect to this initial LLP program for crab, is that the total number overestimates the vessel capacity that is of concern to the BSAI Capacity Reduction program. Included are licenses which qualify 64 vessels to fish in the Norton Sound red king crab fishery, and no other BSAI crab fishery. This fishery has been exempted from the Capacity Reduction program, because it consists of a small-boat near-shore "super-exclusive" registry (that is, vessels engaging in the fishery can take part in no other king crab fishery) summer season fishery of opportunity for local vessels of the Norton Sound area, which tend to have a higher dependence on other fisheries in the area. Additionally, there are two vessels which have been issued interim licenses, with NO endorsements. Deducting the vessels described above, the LLP qualified 476 vessels to fish in the BSAI FMP crab fisheries. This represents a considerable burden in latent capacity, given that the primary economic activity of the fisheries has the regular participation of a fleet of about 235 vessels.

A NATIONAL MORATORIUM, ON 'RATIONALIZATION'

By 1996, many participants in the BSAI crab fisheries were convinced that it was time to move forward to the next phase of rationalization with establishment of Individual Transferable Quotas [ITQs]. An even greater number were opposed. This opposition included new entrants to the fisheries, processing interests, who felt the program would detract from their degree of control of the fishery resources, and the State of Alaska, which was in the throes of a sharp reaction to the establishment of the halibut/sablefish program. In this light, every defect of the program was magnified, and some intended features (such as a very moderate consolidation of effort) were re-characterized as defects. Alaska and National opposition resulted in a four year moratorium on establishing new Individual Fishery Quota [IFQ] programs, nationwide, as a provision of the MSFCMA. This stopped progress on the NPFMC development of the third phase of its Comprehensive Rationalization Plan.

THE CRAB BUYBACK PLAN

Section 312 of the MSFCMA provided for industry-funded buybacks of effort, as a potential method of reducing capacity in the nation's fisheries. Crab fisheries were feeling the impacts of excess capacity, on the resource, and on revenues. The CRAB Group formed to explore the viability of this approach.

The process described in section 312 seemed to offer a streamlined process for the accomplishment of an industry-funded program. Rather than the familiar lengthy Council process, which then was passed to NMFS for approval and implementation, the Act described a process which allowed a fishery management council, or the Governor of a state, to request such a program, and the Secretary of Commerce to act upon that request, and design and implement the program.

Interest was high, and between December, 1996 and June, 1997: The group formed as a non-profit corporation, with an active and diverse board; researched national and international buyback programs; compiled a database of vessel registrations from State of Alaska Commercial Fisheries Entry Commission records (there was nothing yet available from NMFS) which identified vessels, vessel owners, and historic participation in the fisheries, during the LLP qualification years and afterward, as well as current flags and activities for most vessels of record; conducted public meetings together with NOAA Office of Sustainable Fisheries, in Seattle and Kodiak; held additional public meetings in Seattle, Kodiak, and Anchorage; met with legislators at both State and National levels, fishery regulators at NMFS and in the states of Washington and Alaska; commissioned a survey of the vessel owners, and an analysis of the legislative basis for an industry-funded buyback; and reported to the NPFMC.

By September, 1997, an economic study for a model plan was completed by KPMG Peat Marwick, a draft business plan was prepared, both were submitted to NPFMC. NPFMC then sent a letter requesting that the Secretary of Commerce work with the CRAB Group to develop and implement a Section 312 buyback plan for the BSAI FMP crab fisheries. By December, CRAB Group studies, plans and a lengthy memo concerning possibilities for a framework regulation for the program were carried to NMFS headquarters to initiate the process. One element of concern identified by KPMG was the number of latent licenses that were potentially destined for the fisheries.

Rapid program development was made possible by the fortunate occurrence of sufficient and complete data. All landings of BSAI crab are recorded upon a fish ticket, which is a legal instrument in the State of Alaska. Fish ticket information includes species, weight, price, date, time, area caught, dates caught, vessel name and the name of the permitted deliverer. Landing taxes are noted on the fish ticket, and deducted from

payment. Taxes are collected by the raw fish buyer on behalf of state and local government. Observers are required to be present for all processing operations. No live (unprocessed) crab is allowed to be exported from the State of Alaska on board vessels. If a vessel both harvests and processes crab on board, an observer is required to remain aboard until all product is discharged. Vessel licenses, interim use (delivery) permits and crew licenses all require annual renewal, and the records compiled by the State of Alaska, in administration of licenses were essential for the early identification of participants in the fisheries.

AMENDMENT 10

In December, 1997, the NPFMC Industry Advisory Panel began an effort to reduce the number of LLP licenses to be issued, by requiring current participation in the fisheries. Economic analysis and necessary staff time were budgeted by the NPFMC to move the process forward. Amendment 10 established a minimal landing requirement, one landing of any species of crab, in any of the three years since final action on the LLP. This provision resulted in the elimination of approximately 90 latent licenses, resulting in 286 projected licenses for the crab LLP. Final action by the NPFMC took place in June, 1999.

In August of 1999, the results of the Bering Sea summer research cruise, and the preliminary stock assessment for the 2000 fisheries described a fishery stock failure. This occurred despite the attempts of industry to reduce capacity in the fisheries, and of fishery managers to limit fishery efforts to sustainable levels. The NPFMC continued to work at program development. In January, 2000, the LLP program was implemented. Notices mailed to initial recipients cautioned that the program was under revision, and that licenses were issued for one year only. Work aimed at implementing Amendment 10 proceeded.

EXTENSION OF THE NATIONAL MORATORIUM

In late 1999, an ad hoc industry committee formed, to examine the possibility of establishing harvesting cooperatives, similar to those of the Whiting Conservation Cooperative or the Pollock cooperatives authorized under the American Fisheries Act, in the BSAI crab fisheries. The process was to initiate discussion of the elements that would need to be present to succeed in adopting such allocation structures. A parallel committee was formed, to determine unresolved issues facing the CRAB buyback, and advance its implementation.

By June, 2000, the ad hoc cooperative committee had adopted a plan to achieve quota shares, rather than cooperatives, and to seek Congressional support. The moratorium on new IFQ programs expired, in October of 2000. The ad hoc committee plan for rationalization described Individual Transferable Fishing Quotas [ITOs] to harvest crab, Individual Transferable Processing Quotas [IPOs] to process crab (a tough sell in Alaska and elsewhere in the country), and a Regional Landing Requirement to stabilize the historic pattern of deliveries, and protect communities from the migration of deliveries away, in a rationalized fishery. In December, the moratorium was extended for two more years.

CAPACITY REDUCTION PLAN FOR THE BSAI CRAB FISHERIES

In April, 2000, NPFMC Chairman Rick Lauber sent a letter to the Secretary of Commerce, describing the resource problems of the BSAI crab fisheries, and the problem of excess harvesting capacity. The letter described a "two-step" process, and asked the Secretary first, "to seek congressional assistance to support a vessel buyback program using a combination of appropriations, federal loans, and modifications of the Capital Construction Fund as appropriate."

Secondly, the letter asked the Secretary to "...support our efforts to further rationalize these critical crab fisheries. We are committed to working toward the reduction of fishing capacity, which fully comports with NOAA Fisheries Strategic Plan to alleviate overcapitalization in 15% of federally managed fisheries by 2004." [\(23\)](#)

In June, 2000, the ad hoc buyback committee met, in Portland, Oregon, and resolved final details of the program. The period of consideration for catch history to be retired under the plan was to be the most recent five years in the years 1990 to 1999, when a fishery was open. The amount of appropriated funds requested was to be \$50 million, with a \$50 million loan to be repaid by industry. This amount was calculated to be capable of payback at reduced levels of harvest mandated by the new harvest strategies adopted by the Board of Fish in 1999 and 2000. Given the uncertainty of fishery openings in the years just ahead, the term of the loan was requested to be extended to 30 years. Finally, in response to the concerns of participants in other fisheries, the vessels which were attached to the fishing rights and history purchased under the buyout, would lose the right to participate in any fishery, anywhere in the world. In the US, this could be accomplished through the permanent retirement of the vessel fishery endorsement to the Vessel Documentation.

On December 15, 2000, H.R. 4577, Section 144, (d)(1) - (6) defined and authorized a Capacity Reduction Plan for the BSAI Crab fisheries, whose purpose "... is to implement a fishing capacity reduction for the BSAI crab fisheries that results in final action to permanently remove harvesting capacity from such fisheries prior to December 31, 2001."

COMPREHENSIVE RATIONALIZATION OF THE NORTH PACIFIC FISHERIES

H.R. 4577 of December 15, 2000, Section 144, (2)(a) provides "...The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors as well as fishing fleets. The North Pacific Council shall present its analysis to the appropriations and authorizing committees of the Senate and House of Representatives in a timely manner." [\(24\)](#)

In December, 2000, the Chairman of the NPFMC, David Benton, named two committees, the Gulf Rationalization and the BSAI Crab Rationalization committees, to develop elements and options for the analysis mandated, above. The Crab Rationalization committee met three times, and reported to the NPFMC at its April meeting. After NPFMC discussion, the Council Chairman addressed a letter to Secretary of Commerce Donald Evans, describing the actions of the NPFMC relative to the analytic requirements of the HR 4577: "... analysis could be completed later this year, in time for Council consideration in December, with final action likely in February of 2002. Once completed, we would also forward that analysis to Congress ..." The letter continues, "As part of the overall process to rationalize the crab fisheries, I also want to reiterate our Council's support for the buyback program which was also legislated in the recent appropriations bill. Such a buyback will be a very important first step in the rationalization process, and availability of the authorized Congressional funding of \$50 million will likely be critical to the success of the buyback program." [\(25\)](#)

ENDNOTES

***** insert 3 charts here *****

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- ^{2.} State of Alaska, Administrative Code, King Crab Fishery 5 AAC 34.001 -- 5 AAC 34.960), Tanner Crab Fishery (5 AAC 35.001 -- 5 AAC 35.590)
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- ^{9.} Alaska Board of Fish, *St. Matthew Blue Crab Rebuilding Strategy*, ACR 23, Adopted as amended, March 2000
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b b See appended tables: Vessels delivering, BSAI FMP crab fisheries.

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c c See attached Table: Fleet gross revenues, BSAI FMP crab

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